Supreme Court, U.S.
FILED

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No. OFFICE OF THE CLERK

In the
Supreme Court of the United States

JOHN BURIC,

Petitioner,

v.

RAYMOND KELLY, individually and as the Commissioner of the New York City Police Department, THE NEW YORK CITY POLICE DEPARTMENT, THE NEW YORK CITY POLICE DEPARTMENT ARTICLE II PENSION FUND and CITY OF NEW YORK,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The courts rulings, as sanctioned by the Court of Appeals, so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power.

LIST OF PARTIES

Petitioner

The petitioner, John Buric, has no corporate affiliations.

Respondent

The respondents are Raymond Kelly, Individually and as Commissioner of the New York City Police Department; the New York City Police Department, the New York City Police Department Article II Pension Fund and the City of New York.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to review the Summary Order of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

To Petitioner's knowledge, previous opinions rendered in this case have not been reported.

JURISDICTION

The Summary Order of the United States Court of Appeals for the Second Circuit was rendered on December 6, 2005. No rehearing was requested.

This Court has jurisdiction to review the judgment or decree in question by writ of certiorari pursuant to 28 U.S.C. §1254(1).

STATUTORY PROVISION INVOLVED

The statutory provision involved is 42 U.S.C. §1983.

STATEMENT OF THE CASE

A. Relevant Facts

Petitioner was appointed to the title of Police Officer by Respondent Police Department on or about January 25, 1982.

Prior to his appointment, Petitioner duly took and passed a competitive examination for the position of Police Officer. He had also successfully taken the requisite medical and psychological tests administered by Respondents for appointment to the position of Police Officer. Petitioner was found to be both medically and psychologically qualified for appointment as a Police Officer.

Following Petitioner's appointment to Respondent Police Department, Respondents conducted an investigation of his background. That background investigation revealed, *inter*

alia, that Petitioner had been a volunteer member of the NYC Police Department's Auxiliary Police force from March 1974 to May 1977, had been dismissed from the Auxiliary Police force in May 1977 and had successfully challenged that dismissal in a proceeding entitled *Buric v. McGuire*, Index No. 5577/78 (Riccobono, J.)(Sup. Ct. N.Y. Co. 1978). As a result of Justice Riccobono's decision, Petitioner was restored to duty as an Auxiliary Police Officer.

On or about April 22 1983, the City Personnel Director marked Petitioner "Not Qualified" for his initial appointment to Respondent Police Department solely on the basis of his prior public employment record, including but not limited to his 1977 dismissal from his position as an Auxiliary Police Officer. This determination was made despite the fact that during the period from January 25, 1982 through April 25, 1983, while employed as a New York City Police Officer, Petitioner's ratings were at all times satisfactory.

On or about April 26, 1983, Respondents terminated Petitioner's employment as a Police Officer based upon the aforesaid action by the City Personnel Director.

Petitioner duly and timely appealed his disqualification by the Department of Personnel ("Personnel") and his termination by Respondents to the New York City Civil Service Commission (the "Commission").

A hearing on Petitioner's appeal was held before the Commission on January 11, 1984. At this hearing, evidence was presented by Petitioner, Personnel and Respondents concerning Petitioner's prior public employment.

In a decision dated May 2, 1984, the Commission reversed both Petitioner's disqualification by Personnel and his termination by Respondents.